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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,546	05/26/2005	Anja Patten	2235USWO	9817
43896	7590	02/04/2008		
ECOLAB INC. MAIL STOP ESC-F7, 655 LONE OAK DRIVE EAGAN, MN 55121			EXAMINER DOUYON, LORNA M	
			ART UNIT	PAPER NUMBER
			1796	
			MAIL DATE	DELIVERY MODE
			02/04/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/536,546

Applicant(s)

PATTEN ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 19, 2007 has been entered.
2. Claims 19, 23-30 are pending.
3. The rejection of claims 19-21, 23-27 and 30 under 35 U.S.C. 103(a) as being unpatentable over Ferrara et al. (US Patent No. 3,557,006) in view of Lopes (US Patent No. 6,559,110) is withdrawn in view of Applicants' amendment.
4. The rejection of claim 24, in the alternative, under 35 U.S.C. 103(a) as being unpatentable over Ferrara in view of Lopes as applied to the above claims, and further in view of Evans (US Patent No. 4,992,193) is withdrawn in view of Applicants' amendment.
5. The rejection of claims 28-29 under 35 U.S.C. 103(a) as being unpatentable over Ferrara in view of Lopes as applied to the above claims, and further in view of Tauchi et al. (JP 62045516) is withdrawn in view of Applicants' amendment.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 19, 23-24, 26-28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson et al. (US Patent No. 6,432,906), hereinafter "Carlson".

Carlson teaches an acid cleaner composition comprising: a) an effective amount of an acid component comprising at least 5 wt. % of a normally liquid acid and at least 5 wt. % of a normally solid acid, the total weight of both acids are at least 10 wt.%; wherein the normally solid acid is a solid at a temperature less than about 40°C and the normally liquid acid is a liquid at a temperature of less than about 40°C; b) an effective soil suspending amount of a surfactant composition; c) an effective solidifying amount of a urea compound; and d) about 5 to 10 wt.% water; wherein the acid block cleaner composition is solidified and held in a disposable plastic container (see claim 16). Both organic and inorganic acids have been found to be generally useful, the organic acids include, citric acid, among others and organic dicarboxylic acids such as oxalic acid, malonic acid, succinic acid, glutaric acid, maleic acid, fumaric acid, adipic acid, terephthalic acid among others are also useful, and any combination of these organic acids may also be used intermixed or with other organic acids which allow adequate formation of the composition of the invention (see col. 6, lines 46-59). These acids may also be used in combination with inorganic acids like phosphoric acid (see col. 6, lines

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60-65). Any number of surfactants may be used including organic surfactants such as anionic surfactants, cationic surfactants, nonionic surfactants, amphoterics and mixtures thereof (see col. 4, lines 14-23). In Example 34a, Carlson teaches an acid block cleaner which comprises 10 wt% phosphoric acid (75% aqueous), 10 wt% citric acid, 20 wt% hydroxyacetic acid (70% aqueous), 10 wt% SOKALAN DCS (which is about 25 wt% adipic, about 50 wt% glutaric, about 25 wt% succinic) (see Table under col. 10).

Carlson, however, fails to disclose the an acid cleaner composition comprising water in amounts as those recited.

It would have also been obvious to one of ordinary skill in the art at the time the invention was made to optimize the proportions of the water of Carlson through routine experimentation for best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch*, 617 F.2d 272,276,205 USPQ 215,219 (CCPA 1980). See also *In re Woodruff* 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F2d 454,456,105 USPQ 233,235 (CCPA 1955).

8. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson as applied to the above claims, and further in view of Morelli et al. (US Patent No. 6,524,624).

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Carlson teaches the features as discussed above. Carlson, however, fails to disclose the incorporation of lactic acid into the composition.

Morelli teaches the equivalency of phosphoric acid with lactic acid as acidifying agents in a similar composition (see col. 4, lines 9-26).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the phosphoric acid of Carlson with lactic acid because the substitution of art recognized equivalents as shown by Morelli is within the level of ordinary skill in the art.

9. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson as applied to the above claims, and further in view of Mandler et al. (US Patent No. 5,573,698), hereinafter "Mandler".

Carlson teaches the features as discussed above. Carlson, however, fail to disclose the plastic container being made of polyethylene.

Mandler, in an analogous art, teaches a compact block detergent packaged in a plastic container, wherein the materials for the container include polyethylene (see col. 9, lines 1-6; abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to package the solid cleaner of Carlson in a plastic container made of polyethylene because it is shown by Mandler that polyethylene is a common plastic material for packaging similar products.

Response to Arguments

10. Applicants' arguments filed December 19, 2007 have been fully considered but are moot in view of the new grounds of rejections as discussed above.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered cumulative to or less material than those discussed above.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M. Douyon/
Primary Examiner
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